IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6348 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

RAMUBHAI U PATEL

Versus

STATE OF GUJARAT

Appearance:

MR DM THAKKAR for Petitioner

MR PREMAL R JOSHI for M/S PATEL ADVOCATES for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 29/08/2000

ORAL JUDGEMENT

Heard the learned counsel for the parties.

2. It is not in dispute that the petitioner passed the prescribed examination for promotion to the post of

Senior Clerk in the month of December, 1987. In reply to the special civil application, it is stated that the petitioner has not appeared in the promotional examination held for the post of Senior Clerk in the years 1982, 1983, 1984 and 1985 and it may be taken to be a case where he has availed of those chances. As he has not passed this examination within prescribed chances available for passing of the same, the action taken by the respondents to revert him is justified.

3. I do not find any justification in this defence of the respondents. The respondents have failed to produce any proof whatsoever that the petitioner has been informed of the promotional examinations which were held in January, 1982, July, 1982, January, 1983, July, 1983, January, 1984, July, 1984, February, 1985 and October, 1985. The petitioner was first time informed of this examination to be held and passed by him in the year 1986 and he filled in the form for the said examination but for the reasons stated in the special civil application, he could not appear in the said examination. So it was his first attempt for this examination and even if it is taken to have been availed of, in the next attempt he passed the examination and as such this order of reversion passed by the respondents of the petitioner from the post of Senior Clerk cannot be allowed to stand.

4. As a result of the aforesaid discussion, this petition succeeds and the same is allowed. The order dated 10th August, 1987 is quashed and set aside. Rule is made absolute accordingly with no order as to costs.

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